IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10319 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT UNIVERSITY

Versus

NARSINHBHAI K PONKIA

Appearance:

1. Special Civil Application No. 10319 of 1995

MR H A DAVE FOR MR DEVANG NANAVATI for Petitioner No. 1

MR KV GADHIA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 20/07/2004

ORAL JUDGEMENT

1.0 The petitioner University by way of this petition has challenged the award dated 31/07/95 passed by the

Industrial Court, Ahmedabad, in Complaint (IT) No.703/1990.

2.0 The Government of India, Ministry of Education and Culture, started the scheme of 'Shramik Vidyapeeth' with the objective of providing adult education, physical culture and recreation. An amount of Rs.1 Lac was sanctioned by the Government of India to the Gujarat University for the setting up of a Shramik Vidhyapeeth at Ahmedabad. Recruitments were carried out for various posts in the Shramik Vidhyapeeth.

2.1 Appointments to the said Vidyapeeth were done by the Chairman through its Registrar. The employees of the Vidhyapeeth raised a dispute contending that they are employees of the Gujarat University and that they are entitled to the benefits under the award made by the Industrial Tribunal in respect of the employees of the Gujarat University. The Reference was registered as Ref.(IT) No.4/1988 before the Industrial Tribunal, Ahmedbad. The said Reference came to be decided in favour of the Gujarat University General Employees Union.

2.2 Against the said Reference, the Gujarat University preferred S.C.A.No.3073/1993 before this Court, interalia on the ground that the employees of Shramik Vidyapeeth are not the employees of the Gujarat University. By order dated 19/04/93 this Court stayed the operation and implementation of the award dated 15/01/93 passed by the Industrial Tribunal, Ahmedabad in Reference (IT) No.4/1988.

2.3 Meanwhile, it was decided by the Government to discontinue the benefits like C.P.F., Gratuity etc. to the employees of the Shramik Vidyapeeth. The respondent who was working as a Stenographer in the Vidyapeeth made a complaint being Complaint (IT) No.703/1990 before the Industrial Tribunal, Ahmedabad, wherein it was alleged that the petitioner University had changed the service conditions of the employees of the Shramik Vidyapeeth. The Industrial Tribunal, Ahmedabad by award dated 31/07/95 allowed the petition. Hence, this petition.

3.0 Mr.H A Dave for Mr.Devang Nanavaty for the petitioner has submitted that the Industrial Court had no jurisdiction to entertain the matter and that this Court (Coram : A.H.Mehta, J.) had allowed S.C.A.No. 3073/1993 by order dated 17/04/04. Mr.Dave for the petitioner produces on record a copy of the aforesaid decision, wherein in para 4.2 of the said decision it has been observed as under;

"4.2. ... Merely because some orders regarding appointment have been issued pursuant to the advertisement given by the petitioner under the signatures of the Registrar of the petitioner and in the appointment letters it has been stated that they will have to work in accordance with the rules and regulations of the petitioner University would not mean that they are employees of the petitioner. Further even the fact that on some occasions interchangeable transfers have been made, would also not help the respondents to establish that the Vidyapeeth is part and parcel of the petitioner. When the Vidyapeeth has been created for the definite purpose by the Government of India and that too at different places with aforesaid objectives and when it has been categorically stated that it should be given the status of an autonomous body to confer flexibility and appropriate mechanism to tackle various problems quickly. It now cannot be tagged on with the petitioner as if it was like any other education department of the petitioner. The constitution of the Shramik Vidhyapeeth merely shows that it is a distinct, different and separate entity which has its own independent existence dehors the petitioner."

3.1 In the result, the Court relying on different decisions, quashed and set aside the order dated 15/01/93 passed in Reference (IT) No.4/1988 by the Industrial Tribunal, Ahmedabad. Mr.Vaishnav for Mr.K V Gadhia for the respondent has fairly stated that Mr.K V Gadhia had appeared in that matter and the issue in this matter is squarely covered by the decision of this Court in the aforesaid S.C.A.. Therefore, I am also following the reasonings given in S.C.A.No.3073/1993.

4.0 For the foregoing reasons, this petition is allowed. The order dated 31/07/95 passed by the Industrial Tribunal, Ahmedabad at Annexure 'A' to the petition in Complaint (IT) No.703/1990 is quashed and set aside. Rule is made absolute with no orders as to costs.

(K. S. Jhaveri, J.)

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